

1 Jason Flanders (Bar No. 238007)
2 Email: jrf@atalawgroup.com
3 Kenya Rothstein (Bar No. 340854)
4 Email: ksr@atalawgroup.com
5 Aqua Terra Aeris Law Group
6 4030 Martin Luther King Jr. Way
7 Oakland, CA 94609
8 T: (916) 202-3018

7 Barak J. Kamelgard (Bar No. 298822)
8 Email: Barak@lawwaterkeeper.org
9 Benjamin A. Harris (Bar No. 313193)
10 Email: ben@lawwaterkeeper.org
11 LOS ANGELES WATERKEEPER
12 360 E 2nd Street Suite 250
13 Los Angeles, CA 90012
14 Phone: (310) 394-6162

13 *Attorneys for Plaintiff*

14 LOS ANGELES WATERKEEPER

15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 LOS ANGELES WATERKEEPER, a
18 California non-profit association,

19 Plaintiff,

20 v.

21 MONOGRAM AEROSPACE
22 FASTENERS, INC., TRIMAS
23 CORP., AND TRIMAS COMPANY,
24 LLC, AND DOES 1-99

25 Defendants.

Case No.

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF AND
CIVIL PENALTIES**

**(Federal Water Pollution
Control Act, 33 U.S.C. §§ 1251 *et*
seq.)**

1 **Los Angeles Waterkeeper (“LA Waterkeeper” or “Plaintiff”), by and**
2 **through its counsel, hereby allege the following upon information and belief:**

3 **I. JURISDICTION AND VENUE**

4 1. This is a civil suit brought under the citizen suit enforcement provision
5 of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq. (“Clean Water
6 Act” or “CWA”). (See 33 U.S.C. § 1365.) This Court has subject matter jurisdiction
7 over the parties and this action pursuant to 33 U.S.C. § 1365(a)(1) and 28 U.S.C.
8 §§ 1331 and 2201 (an action for declaratory and injunctive relief arising under the
9 Constitution and laws of the United States).

10 2. Pursuant to 40 C.F.R. § 135.2(a)(2), on May 5, 2023, LA Waterkeeper
11 issued a 60-day notice letter (the “Notice Letter”), to the registered agent for service
12 of process for Monogram Aerospace Fasteners, Inc., (“Monogram Aerospace”) and
13 Trimas Corp. and Trimas Company LLC, (collectively “Defendants”) as the owners
14 and operators of the Facility. Plaintiff also issued the Notice Letter to Monogram
15 Aerospace’s Chief Executive Officer and EHS Corporate Manager as well as to
16 Trimas Corp.’s and Trimas Company LLC’s Irvine and Bloomfield Hill addresses.

17 3. The Notice Letter was also sent to the U.S Attorney General Acting
18 Administrator of the United States Environmental Protection Agency (“EPA”), the
19 Acting Administrator of EPA Region IX, the Executive Director of the State Water
20 Resources Control Board (“State Board”), and the Executive Officer of the
21 Regional Water Quality Control Board, Los Angeles Region, (“Regional Board”) as
22 required by Section 505(b) of the CWA, 33 U.S.C. § 1365(b)(1)(A). The Notice
23 Letter is attached hereto as **Exhibit A** and is fully incorporated herein by reference.

24 4. The Notice Letter informed Defendants of their ongoing violations of
25 substantive and procedural requirements of the CWA, 33 U.S.C. § 1251 et seq. and
26 California’s General Industrial Storm Water Permit, National Pollution Discharge
27 Elimination System (“NPDES”) General Permit No. CAS000001 Water Quality
28 Order No. 2014-0057-DWQ as amended by Order No. 2015-0122- DWQ

1 incorporating: 1) Federal Sufficiently Sensitive Test Method Ruling; 2) Total
2 Maximum Daily Load (“TMDL”) Implementation Requirements; and 3) Statewide
3 Compliance Options Incentivizing On-Site or Regional Storm Water Capture and
4 Use, and as subsequently amended by Order 2018-0028-DWQ incorporating
5 TMDL effluent limits (effective July 1, 2020) (hereafter the “Storm Water Permit”
6 or “General Permit”) and the Clean Water Act at the industrial facility located at
7 3423 Garfield Ave, Commerce, CA 90040 with Waste Discharger Identification
8 Number 4 19I001761 (hereafter, the “Facility”).

9 5. The Notice Letter informed Defendants of Plaintiff’s intent to file suit
10 against Defendants to enforce the Storm Water Permit and the Clean Water Act.

11 6. More than sixty (60) days have passed since both the Notice Letter was
12 served on the Defendants and the State and Federal agencies. Plaintiff is informed
13 and believes, and in turn alleges, that neither the EPA nor the State of California
14 has commenced or is diligently prosecuting an action to redress the violations
15 alleged in the Notice Letter and in this complaint. (*See* 33 U.S.C. § 1365(b)(1)(B).)

16 7. This action is not barred by any prior administrative penalty under
17 Section 309(g) of the CWA, 33 U.S.C. § 1319(g).

18 8. Venue is proper in the Central District of California pursuant to
19 Section 505(c)(1) of the CWA, 33 U.S.C. § 1365(c)(1), because the sources of the
20 violations are located within this judicial district.

21 9. Plaintiff seeks relief for Defendants’ substantive and procedural
22 violations of the Storm Water Permit and the Clean Water Act resulting from
23 industrial activities at the Facility.

24 **II. INTRODUCTION**

25 10. With every significant rainfall event, hundreds of millions of gallons
26 of polluted rainwater, originating from industrial operations such as the Facility
27 referenced herein, pour into the storm drains and local waterways. The consensus
28 among regulatory agencies and water quality specialists is that storm water

1 pollution accounts for more than half of the total pollution entering marine and river
2 environments each year. These surface waters, known as Receiving Waters, are
3 ecologically sensitive areas. Although pollution and habitat destruction have
4 drastically diminished once abundant and varied fisheries, these waters are still
5 essential habitat for dozens of fish and bird species as well as macro-invertebrate
6 and invertebrate species. Storm water and non-storm water contain sediment, heavy
7 metals, such as aluminum, iron, chromium, copper, lead, mercury, nickel, and zinc,
8 as well as high concentrations of nitrate and nitrite, and other pollutants. Exposure
9 to polluted storm water harms the special aesthetic and recreational significance
10 that the surface waters have for people in the surrounding communities. The
11 public's use of the surface waters exposes many people to toxic metals and other
12 contaminants in storm water and non-storm water discharges. Non-contact
13 recreational and aesthetic opportunities, such as wildlife observation, are also
14 impaired by polluted discharges to the Receiving Waters.

15 11. High concentrations of total suspended solids ("TSS") degrade
16 optical water quality by reducing water clarity and decreasing light available to
17 support photosynthesis. TSS has been shown to alter predator-prey relationships
18 (for example, turbid water may make it difficult for fish to hunt prey). Deposited
19 solids alter fish habitat, aquatic plants, and benthic organisms. TSS can also be
20 harmful to aquatic life because numerous pollutants, including metals and
21 polycyclic aromatic hydrocarbons, are absorbed onto TSS. Thus, higher
22 concentrations of TSS result in higher concentrations of toxins associated with
23 those sediments. Inorganic sediments, including settleable matter and suspended
24 solids, have been shown to negatively impact species richness, diversity, and total
25 biomass of filter feeding aquatic organisms on bottom surfaces. Storm water
26 discharged with high pH can damage the gills and skin of aquatic organisms and
27 cause death at levels above 10 standard units. The pH scale is logarithmic, and the
28 solubility of a substance varies as a function of the pH of a solution. A one-whole-

1 unit change in SU represents a tenfold increase or decrease in ion concentration. If
2 the pH of water is too high or too low, the aquatic organisms living within it will
3 become stressed or die.

4 12. This complaint seeks a declaratory judgment, injunctive relief, the
5 imposition of civil penalties, and the award of costs, including attorney and expert
6 witness fees, for Defendants' substantive and procedural violations of the Storm
7 Water Permit and the Clean Water Act resulting from Defendants' operations at the
8 Facility.¹

9 13. Plaintiff specifically alleges violations regarding Defendants'
10 discharge of pollutants from the Facility into waters of the United States; violations
11 of the monitoring, reporting, and best management practice requirements; and
12 violations of other procedural and substantive requirements of the Storm Water
13 Permit and the Clean Water Act, are ongoing and continuous.

14 **III. PARTIES**

15 **A. Los Angeles Waterkeeper**

16 14. LA Waterkeeper is a non-profit 501(c)(3) public benefit corporation
17 organized under the laws of the State of California. LA Waterkeeper maintains an
18 office at 360 E. Second Street, Suite 250, Los Angeles, California 90012.

19 15. LA Waterkeeper's members live and/or recreate in and around Los
20 Angeles. LA Waterkeeper is dedicated to the preservation, protection, and defense
21 of the environment, wildlife, and natural resources of local surface waters. To
22 further these goals, LA Waterkeeper actively seeks federal and state agency
23 implementation of the Clean Water Act and, where necessary, directly initiates
24 enforcement actions on behalf of itself and others.

25 16. LA Waterkeeper members work, own homes and live in Los Angeles
26 County and use and enjoy the waters near the Facility, including the Rio Hondo
27 Channel, the Lower Los Angeles River, and just downstream, Queensway Bay

28 ¹ The Facility is fully described in Section V below.

1 Junipero Beach, and the Pacific Ocean. (the “Receiving Waters”). LA Waterkeeper
2 members also use and enjoy the bordering parks, pathways, golf courses, and
3 athletic fields. They also enjoy and use other connected waterways to bike, boat,
4 kayak, bird watch, ride horses, view wildlife, hike, walk, run, fish, surf, swim, sail,
5 and recreate. LA Waterkeeper members engage in scientific study through pollution
6 and habitat monitoring and restoration activities in and along all these waters.

7 17. Discharges of polluted storm water and non-storm water from the
8 Facility degrade water quality and harm aquatic life in the Rio Hondo Channel, the
9 Lower Los Angeles River, Queensway Bay, Junipero Beach, and the Pacific Ocean
10 and impair LA Waterkeeper’s members use and enjoyment of those waters. The
11 unlawful discharge of pollutants from the Facility requires LA Waterkeeper to
12 expend its limited resources to study and combat pollution from the Facility.

13 18. The violations of the Storm Water Permit and Clean Water Act at the
14 Facility are ongoing and continuous, including but not limited to Defendants’
15 discharge of polluted storm water from the Facility. Thus, the interests Plaintiff’s
16 members have been, are being, and will continue to be adversely affected by
17 Defendants’ failure to comply with the Storm Water Permit and the Clean Water
18 Act.

19 19. Continuing commission of the acts and omissions alleged above will
20 irreparably harm Plaintiff and its members, for which they have no plain, speedy or
21 adequate remedy at law.

22 20. The interests of LA Waterkeeper’s members have been, are being,
23 and will continue to be adversely affected by Defendants’ failure to comply with
24 the Clean Water Act and the Storm Water Permit. The relief sought herein will
25 redress the harm to Plaintiff caused by Defendants’ activities.

26 ///

27 ///

28 ///

B. The Owners and/or Operators of the Facility

21. Plaintiff is informed and believes, and thereon alleges, that Monogram Aerospace maintains its principal place of business at 3423 S. Garfield Ave Los Angeles, CA 90040.

22. Plaintiff is informed and believes, and thereon alleges, that Monogram Aerospace is an owner and operator of the Facility.

23. Plaintiff is informed and believes, and thereon alleges, that Monogram Aerospace was formed in Delaware and is registered in California.

24. Plaintiff is informed and believes, and thereon alleges, that the name and address of the Registered Agent for Monogram Aerospace is CSC-Lawyers Incorporating Service for Monogram Aerospace (C1592199), 2710 Gateway Oaks Drive, Suite 150 N, Sacramento, CA 95833

25. Plaintiff is informed and believes, and thereon alleges, that Trimas Corp. was formed in Delaware and is registered in Michigan.

26. Plaintiff is informed and believes, and thereon alleges, that Trimas Corp. has its principal place of business at 38505 Woodward Avenue Suite 200 Bloomfield Hills, MI 48304 USA

27. Plaintiff is informed and believes, and thereon alleges, that Trimas Company, LLC was formed in Delaware and is registered in Michigan and California.

28. Plaintiff is informed and believes, and thereon alleges, that Trimas Company, LLC has its principal place of business at 38505 Woodward Avenue Suite 200 Bloomfield Hills, MI 48304.

29. Plaintiff is informed and believes, and thereon alleges, that Trimas Corp. and Trimas, LLC are part of the same company, and will hereinafter be referred to as "Trimas."

30. Plaintiff is informed and believes, and thereon alleges, that the name and address of the Registered Agent for Trimas is CSC-Lawyers Incorporating

1 Service for Monogram Aerospace, 3410 Belle Chase Way, Suite 600, Lansing, MI
2 48911.

3 31. Plaintiff is informed and believes, and thereon alleges, that Trimas
4 owns the property in which Monogram Aerospace operates.

5 32. Plaintiff is informed and believes, and thereon alleges, that Trimas
6 exercises extensive control over the operations of Monogram Aerospace.

7 33. Plaintiff is informed and believes, and thereon alleges, that Trimas
8 has knowledge of the operations at Monogram Aerospace.

9 34. Plaintiff is informed and believes, and thereon alleges, that Trimas
10 and Monogram Aerospace corporate officers share the same business address.

11 35. Plaintiff is informed and believes, and thereon alleges, that Trimas
12 and Monogram Aerospace are part of the same business.

13 36. Plaintiff is informed and believes, and thereon alleges, that Tri-Mas
14 is an owner and operator of the Facility.

15 37. LA Waterkeeper refers to Defendants Monogram Aerospace, Tri-
16 Mas, and its management herein as the “Owners/Operators” of the Facility.

17 **IV. STATUTORY BACKGROUND**

18 **A. The Clean Water Act**

19 32. Section 301(a) of the Clean Water Act, 33 U.S.C. § 1311(a), prohibits
20 the discharge of any pollutant into waters of the United States unless the discharge
21 complies with various enumerated sections of the CWA. Among other things,
22 Section 301(a) prohibits discharges not authorized by, or in violation of, the terms
23 of a National Pollutant Discharge Elimination System (“NPDES”) permit issued
24 pursuant to Section 402 of the CWA, 33 U.S.C. §§ 1311(a) and 1342(b).

25 33. Section 402(p) of the CWA establishes a framework for regulating
26 municipal and industrial storm water discharges under the NPDES program. (33
27 U.S.C. § 1342(p).) States with approved NPDES permit programs are authorized
28 by Section 402(p) to regulate industrial storm water discharges through individual

1 permits issued to dischargers and/or through the issuance of a single, statewide
2 general permit applicable to all industrial storm water dischargers. (33 U.S.C. §
3 1342.)

4 34. Section 301(b) of the Clean Water Act requires that all point source
5 dischargers, including those discharging polluted storm water, must achieve
6 technology-based effluent limitations by utilizing Best Available Technology
7 Economically Achievable (“BAT”) for toxic and nonconventional pollutants and
8 the Best Conventional Pollutant Control Technology (“BCT”) for conventional
9 pollutants. (*See* 33 U.S.C. § 1311(b).)

10 35. The Clean Water Act requires point source discharges of pollutants
11 to navigable waters be regulated by an NPDES permit. (33 U.S.C. §§ 1311(a),
12 1342.; *see* 40 C.F.R. § 122.26(c)(1).)

13 36. The “discharge of a pollutant” means, among other things, “any
14 addition of any pollutant to navigable waters from any point source.” (33 U.S.C. §
15 1362(12); *see* 40 C.F.R. § 122.2.)

16 37. The term “pollutant” includes “dredged spoil, solid waste, incinerator
17 residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological
18 materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand,
19 cellar dirt and industrial, municipal, and agricultural waste discharged into water.”
20 (33 U.S.C. § 1362(6); *see* 40 C.F.R. § 122.2.)

21 38. The term “point source” means any “discernible, confined and
22 discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel,
23 conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding
24 operation, or vessel or other floating craft, from which pollutants are or may be
25 discharged.” (33 U.S.C. § 1362(14); *see* 40 C.F.R. § 122.2.)

26 39. “Navigable waters” means “the waters of the United States.” (33
27 U.S.C. 1362(7); 33 CFR § 328.3.)
28

1 40. Section 505(a)(1) and Section 505(f) of the Clean Water Act provide
 2 for citizen enforcement actions against any “person” who is alleged to be in
 3 violation of an “effluent standard or limitation . . . or an order issued by the
 4 Administrator or a State with respect to such a standard or limitation.” (*See* 33
 5 U.S.C. §§ 1365(a)(1) and 1365(f).)

6 41. Defendants a “person[s]” within the meaning of Section 502(5) of
 7 the Clean Water Act, 33 U.S.C. § 1362(5).

8 42. An action for injunctive relief is authorized under Section 505(a) of
 9 the CWA, (33 U.S.C. § 1365(a).)

10 43. Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the
 11 Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4), each
 12 separate violation of the CWA occurring after December 20, 2015, commencing
 13 five years prior to the date of Notice of Violation and Intent to File Suit subjects
 14 each Defendant to a penalty of up to \$64,618 per day per violation.

15 44. Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), permits
 16 prevailing or substantially prevailing parties to recover litigation costs, including
 17 attorneys’ fees, experts’ fees, and consultants’ fees.

18 **B. California’s Storm Water Permit**

19 45. Section 402(b) of the CWA, 33 U.S.C. § 1342(b), allows each state to
 20 administer its own EPA-approved NPDES permit program for regulating the
 21 discharge of pollutants, including discharges of polluted storm water. States with
 22 approved NPDES permit programs are authorized by Section 402(b) to regulate
 23 industrial storm water discharges through individual NPDES permits issued to
 24 dischargers and/or through the issuance of a statewide general NPDES permit
 25 applicable to all industrial storm water dischargers. (*See* 33 U.S.C. § 1342(b).)

26 46. Pursuant to Section 402 of the CWA, 33 U.S.C. § 1342, the
 27 Administrator of the EPA has authorized California to issue NPDES permits,
 28 including general NPDES permits. California has designated the State Board and

1 the Regional Boards to administer its NPDES program. (*City of Rancho*
 2 *Cucamonga v. Regional Water Quality Control Bd.*, (2006) 135 Cal. App. 4th 1377,
 3 1380-81.) In California, the State Board is charged with regulating pollutants to
 4 protect California's water resources. (*See* Cal. Water Code § 13001.) The Storm
 5 Water Permit is a statewide general NPDES permit issued by the State Board
 6 pursuant to Section 402 of the CWA, 33 U.S.C. §§ 1342(b), (p), and 40 C.F.R. §
 7 123.25. Violations of the Storm Water Permit are also violations of the CWA.
 8 (Storm Water Permit, Section XXI(A).)

9 47. Section 303 of the CWA, 33 U.S.C. § 1313, requires states to adopt
 10 Water Quality Standards, including water quality objectives and beneficial uses
 11 for navigable waters of the United States. 33 U.S.C. § 1313(a). The CWA
 12 prohibits discharges from causing or contributing to a violation of such state
 13 Water Quality Standards. (*See* 33 U.S.C. § 1311(b)(1)(C); 40 C.F.R. §§ 122.4(a),
 14 (d); 40 C.F.R. § 122.44(d)(1).)

15 48. The State Board elected to issue a statewide general permit for
 16 industrial discharges. The State Board issued the Storm Water Permit on or about
 17 November 19, 1991, modified the Storm Water Permit on or about September 17,
 18 1992, and reissued the Storm Water Permit on or about April 17, 1997, pursuant
 19 to Section 402(p) of the Clean Water Act, 33 U.S.C. § 1342(p).

20 49. On July 1, 2015, the current Storm Water Permit became effective
 21 and was issued as *NPDES General Permit No. CAS000001 State Water Resources*
 22 *Control Board Water Quality Order No. 2014-0057-DWQ*. (Storm Water Permit,
 23 Section I(A) (Finding 4).)

24 50. On November 6, 2018, the State Board amended the Storm Water
 25 Permit with Order No. No. 2015-0122 –DWQ, incorporating: 1) Federal
 26 Sufficiently Sensitive Test Method Ruling; 2) TMDL Implementation
 27 Requirements; and 3) Statewide Compliance Options Incentivizing On-Site or
 28 Regional Storm Water Capture and Use (“2018 Permit Amendment”).

51. In order to discharge storm water lawfully in California, industrial dischargers must secure coverage under the Storm Water Permit and comply with its terms or obtain and comply with an individual NPDES permit. (Storm Water Permit, Section I.A (Findings 8, 12).) Prior to beginning industrial operations, dischargers are required to apply for coverage under the Storm Water Permit by submitting a Notice of Intent to Comply with the Terms of the Storm Water Permit to Discharge Storm Water Associated with Industrial Activity (“NOI”) to the State Board. (Storm Water Permit, Section I.A (Finding 17), Section II.B.)

C. The Storm Water Permit’s Discharge Prohibitions, Effluent Limitations, and Receiving Water Limitations

47. The Storm Water Permit contains certain absolute prohibitions. The Storm Water Permit prohibits the direct or indirect discharge of materials other than storm water (“non-storm water discharges”), which are not otherwise authorized by an NPDES permit, to the waters of the United States. (Storm Water Permit, Discharge Prohibition III(B).)

48. Effluent Limitations Section V(A) of the Storm Water Permit requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through the implementation of Best Available Technology Economically Achievable (“BAT”) for toxic or non-conventional pollutants, and Best Conventional Pollutant Control Technology (“BCT”) for conventional pollutants. Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead, and zinc, among others. Conventional pollutants are listed at 40 C.F.R. § 401.16 and include biological oxygen demand, TSS, oil and grease (“O&G”), pH, and fecal coliform.

49. Discharge Prohibition III(C) of the Storm Water Permit prohibits storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

1 50. Under the CWA and the Storm Water Permit, dischargers must
 2 employ Best Management Practices (“BMPs”) that constitute BAT and BCT to
 3 reduce or eliminate storm water pollution. 33 U.S.C. § 1311(b). (Storm Water
 4 Permit, Section V(A).) EPA has developed benchmark levels (“Benchmarks”) that
 5 are objective guidelines to evaluate whether a permittee’s BMPs achieve
 6 compliance with the BAT/BCT standards. (*See* Final National Pollutant Discharge
 7 Elimination System (NPDES) General Permit for Storm Water Discharges From
 8 Industrial Activities (“Multi-Sector Permit”), 80 Fed. Reg. 34,403, 34,405 (June
 9 16, 2015); Multi-Sector Permit, 73 Fed. Reg. 56,572, 56,574 (Sept. 29, 2008);
 10 Multi-Sector Permit, 65 Fed. Reg. 64,746, 64,766-67 (Oct. 30, 2000).)

11 51. The 2015 Multi-Sector General Permit (MSGP) parameter
 12 Benchmarks, among others, are as follows: TSS—100 mg/L; aluminum—.075
 13 mg/L; nitrate plus nitrite as nitrogen (“N+N”)—0.68 mg/L; lead—0.082 mg/L;
 14 cyanide—0.022 mg/L; copper—0.014 mg/L; zinc—0.12 mg/L; iron—1.0 mg/L;
 15 pH—6.0-9.0 s.u; biological oxygen demand—30 mg/L; and chemical oxygen
 16 demand—120 mg/L. EPA Benchmarks for heavy metals, which depend on the
 17 hardness of the receiving water, also apply to storm water discharges from the
 18 Facility.

19 52. The EPA’s most recent, 2021 Parameter Benchmark Values for the
 20 following parameters, among others, are as follows: TSS—100 mg/L;
 21 aluminum—1.1 mg/L; nitrate plus nitrite as nitrogen (“N+N”)—0.68 mg/L;
 22 lead—0.082 mg/L; cyanide—0.022 mg/L; copper—0.00519 mg/L; zinc—0.12
 23 mg/L; pH—6.0-9.0 s.u; biological oxygen demand—30 mg/L; and chemical
 24 oxygen demand—120 mg/L. Additional EPA Benchmarks for heavy metals,
 25 which depend on the hardness of the receiving water, also apply to storm water
 26 discharges from the Facility.

27 53. The Storm Water Permit contains Numeric Action Levels (“NALs”)
 28 that generally mirror the 2008 EPA Benchmark Values. (*See* Storm Water Permit,

1 Section I(M)(Finding 62).) Annual NALs, not accounting for water hardness, for
 2 the following parameters are: pH—6.0 – 9.0 standard units; TSS—100 mg/L;
 3 copper—0.0332 mg/L; zinc—0.26 mg/L; nickel—1.02 mg/L; lead—.262 mg/L;
 4 cyanide—0.022 mg/L; iron—1.0 mg/L; N+N—0.68 mg/L; O&G—15 mg/L;
 5 aluminum—0.75 mg/L; biological oxygen demand—30 mg/L; and chemical
 6 oxygen demand—120 mg/L. Storm Water Permit, Table 2 at 47. Instantaneous
 7 Maximum NALs, for the following parameters are: pH—6.0 – 9.0 s.u.; TSS—
 8 400mg/L; O&G—25mg/L. (*Id.*)

9 54. An annual NAL exceedance occurs when the average of all the
 10 analytical results for a parameter from samples taken within a reporting year
 11 exceeds the annual NAL value for that parameter. An instantaneous maximum
 12 NAL exceedance occurs when two (2) or more analytical results from samples
 13 taken for any single parameter within a reporting year exceed the instantaneous
 14 maximum NAL value or are outside of the instantaneous maximum NAL range
 15 for pH. (Stormwater Permit Section XII.A.)

16 55. Receiving Water Limitation Section VI(B) of the Storm Water
 17 Permit prohibits storm water discharges from adversely impacting human health
 18 or the environment.

19 56. Discharges with pollutant levels that exceed levels known to
 20 adversely impact aquatic species and the environment are violations of the Storm
 21 Water Permit's Receiving Water Limitation. (Storm Water Permit, Section
 22 VI(B).)

23 57. Receiving Water Limitation Section VI(A) of the Storm Water
 24 Permit prohibit storm water discharges that cause or contribute to an exceedance
 25 of any “applicable Water Quality Standard in a Statewide Water Quality Control
 26 Plan or the applicable Regional Board's Basin Plan.”

1 58. Water Quality Standards (“WQS”) are pollutant concentration levels
2 determined by the State Board, the various Regional Boards, and the EPA to be
3 protective of the beneficial uses of the waters that receive polluted discharges.

4 59. The State of California regulates water quality through the State
5 Board and the nine Regional Boards. Each Regional Board maintains a separate
6 Water Quality Control Plan which contains WQS for water bodies within its
7 geographic area.

8 60. The State Water Quality Control Board, Los Angeles Region, has
9 issued the Water Quality Control Plan for the Los Angeles Region (“the Basin
10 Plan”) to establish water quality objectives, implementation plans for point and
11 non-point source discharges, prohibitions, and to further statewide plans and
12 policies. The Basin Plan sets forth water quality objectives for dissolved metals
13 such as aluminum, arsenic, and mercury. (Basin Plan, Table 3-8.) The Basin Plan
14 states that the waters shall not receive sediment, settleable materials, or suspended
15 materials that cause nuisance or adversely affect the waters’ beneficial uses. (*Id.* at
16 3-44.) The Basin Plan also provides that “Toxic pollutants shall not be present at
17 levels that will bioaccumulate in aquatic life to levels which are harmful to aquatic
18 life or human health.” (*Id.* at 3-29.)

19 61. The Basin Plan’s WQS also require a narrower pH range of 6.5 – 8.5
20 pH units for inland surface waters such as the Los Angeles River and its
21 watershed.

22 62. The Basin Plan specifies potential intermittent and existing beneficial
23 uses for the Rio Hondo Reach 1 and 2 and the Los Angeles River Reach 2
24 including municipal and domestic supply, industrial and service supply,
25 groundwater recharge, warm freshwater habitat, and wildlife habitat. (Basin Plan,
26 Table 2-1.) The Basin Plan further specifies beneficial uses for Reach 1 of the Los
27 Angeles River and the Los Angeles estuary which include the above, and include
28 but are not limited to other beneficial uses: marine habitat, estuarine habitat,

1 wetland habitat, spawning, reproduction, and/or early development, migration of
2 aquatic organisms, and rare, threatened, or endangered species. (*Id.*)

3 63. Surface waters that cannot support the Beneficial Uses of those
4 waters listed in the Basin Plan are designated as impaired water bodies pursuant to
5 Section 303(d) of the Clean Water Act, 33 U.S.C. §1313(d).

6 64. The Rio Hondo Reach 1 is impaired for pH, Toxicity, Lead, Trash,
7 Copper, Zinc, and Indicator Bacteria. It has been proposed in the Draft California
8 2024 Integrated Report that Reach 1 will also be listed for Oil and Grease. Reach
9 2 of the Los Angeles River is impaired for Trash, Nutrients (Algae), Ammonia,
10 Indicator Bacteria, Oil, Copper, and Lead. It has been proposed in the Draft
11 California 2024 Integrated Report that Reach 2 will also be listed for Oil and Gas
12 and zinc. Further downstream, Reach 1 of the Los Angeles River is impaired for
13 Copper (Dissolved), Cadmium, Ammonia, Zinc (Dissolved), pH, Cyanide,
14 Nutrients (Algae), Indicator Bacteria, Trash, and Lead. It has been proposed in the
15 Draft California 2024 Integrated Report that Reach 1 will also be listed for
16 Aluminum; Bifenthrin; Cyfluthrin; Cypermethrin; Deltamethrin; Fipronil;
17 Imidacloprid; Iron; Oil and Grease; Permethrin; Profenofos; Pyrethroids;
18 Temperature; and Toxicity. It has also been proposed that cadmium will be
19 delisted. The Los Angeles River Estuary, and Queensway Bay are also listed for
20 impairments including Chlordane (sediment), DDT (sediment), PCBs
21 (Polychlorinated biphenyls) (sediment), Toxicity, and Trash. It has been proposed
22 in the Draft California 2024 Integrated Report these waters will also be listed for
23 copper, indicator bacteria, dissolved oxygen, temperature, and zinc. The San
24 Pedro Bay is impaired for Total DDT (sum of 4,4'- and 2,4'- isomers of DDT,
25 DDE, and DDD), PCBs (Polychlorinated biphenyls), Toxicity, and Chlordane. It
26 has been proposed in the Draft California 2024 Integrated Report that San Pedro
27 Bay will also be listed for copper, DDE, DDT, and temperature. The Receiving
28

1 Waters are impaired, and Defendants' discharges of pollutants above the WQS
2 contributes to the continued impairment of the receiving waters' beneficial uses.

3 65. In addition, EPA has promulgated WQS for toxic priority pollutants
4 in all California water bodies ("California Toxics Rule" or "CTR"), which apply
5 to the Receiving Waters, unless expressly superseded by the Basin Plan. (40
6 C.F.R. § 131.38.) The CTR sets forth lower numeric limits for zinc and other
7 pollutants; CTR criteria can be as low as, 0.065 mg/L for lead, 0.013 mg/L for
8 copper, 0.022 mg/L for cyanide, 0.47 mg/L for nickel, and 0.12 mg/L for zinc in
9 freshwater surface waters with water hardness calculation of 50 mg/L.²

10 66. The CTR includes further numeric criteria set to protect human
11 health and the environment in the State of California. (*See* Establishment of
12 Numeric Criteria for Priority Toxic Pollutants for the State of California
13 Factsheet, EPA-823-00-008 (April 2000), available at: [https://www.epa.gov/wqs-](https://www.epa.gov/wqs-tech/water-quality-standards-establishment-numeric-criteria-priority-toxic-pollutants-state)
14 [tech/water-quality-standards-establishment-numeric-criteria-priority-toxic-](https://www.epa.gov/wqs-tech/water-quality-standards-establishment-numeric-criteria-priority-toxic-pollutants-state)
15 [pollutants-state](https://www.epa.gov/wqs-tech/water-quality-standards-establishment-numeric-criteria-priority-toxic-pollutants-state).)

16 67. Discharges with pollutant levels in excess of the CTR criteria, the
17 BasinPlan, and/or other applicable WQS are violations of the Storm Water
18 Permit's Receiving Water Limitations. (*See* Storm Water Permit, Section VI(A).)

19 **D. The Storm Water Permit's Numeric Effluent Limitations**

20 68. Effective July 1, 2020, the Storm Water Permit establishes numeric
21 effluent limitations ("NELs") for facilities that discharge storm water associated
22 with industrial activities into water bodies that have approved TMDLs set forth in
23 Storm Water Permit, Attachment E. TMDLs in place for pollutants discharged
24 from industrial facilities to the Los Angeles River and its tributaries include
25 nitrogen and metals. (Storm Water Permit, Attachment E, Table E-1.)

26
27 ² The CTR numeric limits, or "criteria," are expressed as dissolved metal concentrations in the
28 CTR, but the Storm Water Permit requires permittees to report their sample results as total metal
concentrations. (*See* Storm Water Permit, Attachment H at ¶ 18.)

69. Discharges from the Facility are subject to the Los Angeles River tributaries and watershed TMDL requirements, which include the following NELs: Nitrate-Nitrogen (8.0 mg/L), Nitrite-Nitrogen (1.0 mg/L), Nitrate+Nitrite Nitrogen (8.0 mg/L), Ammonia (10.1 mg/L), copper (0.06749 mg/L), lead (0.094 mg/L), cadmium (0.0031 mg/L), and zinc (0.159 mg/L). (Storm Water Permit, Attachment E, Table E-2.)

70. An exceedance of an NEL constitutes a violation of the General Permit. (General Permit, Attachment C at 5.) An NEL exceedance occurs when two (2) of more analytical results from samples taken for any single parameter within a reporting year exceed the instantaneous maximum NEL value listed in Table E-2 of Attachment E to the General Permit. (*Id.*)

E. The Storm Water Permit's Storm Water Pollution Prevention Plan Requirements

72. Dischargers must develop and implement a Storm Water Pollution Prevention Plan ("SWPPP") at the time industrial activities begin. (Storm Water Permit, Sections I(I) (Finding 54) and X(B).) The SWPPP must identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water and authorized non-storm water discharges from the facility. (Storm Water Permit, Section X(G).) The SWPPP must identify and evaluate sources of pollutants associated with industrial activities that may affect the quality of storm water and authorized non-storm water discharges from the facility. (Storm Water Permit, Section X(G).) The SWPPP must identify and implement site-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water and authorized non-storm water discharges. (Storm Water Permit, Section X(H).) The SWPPP must include BMPs that achieve pollutant discharge reductions attainable via BAT and BCT. (Storm Water Permit, Sections I(D) (Finding 32) and X(C).)

1 73. The SWPPP must include: a narrative description and summary of all
2 industrial activity, potential sources of pollutants, and potential pollutants; a site
3 map indicating the storm water conveyance system, associated points of
4 discharge, direction of flow, areas of actual and potential pollutant contact,
5 including the extent of pollution-generating activities, nearby water bodies, and
6 pollutants control measures; a description of storm water management practices; a
7 description of the BMPs to be implemented to reduce or prevent pollutants in
8 storm water discharges and authorized non-storm water discharges; the
9 identification and elimination of non-storm water discharges; the location where
10 significant materials are being shipped, stored, received, and handled, as well as
11 the typical quantities of such materials and the frequency with which they are
12 handled; a description of dust and particulate-generating activities; and a
13 description of individuals and its current responsibilities for developing and
14 implementing the SWPPP. (Storm Water Permit, Section X.)

15 74. The objectives of the SWPPP are to identify and evaluate sources of
16 pollutants associated with industrial activities that may affect the quality of storm
17 water discharges, to identify and implement site-specific BMPs to prevent the
18 exposure of pollutants to storm water, and to reduce or prevent the discharge of
19 polluted storm water from industrial facilities. (Storm Water Permit, Section X.)

20 75. The Storm Water Permit requires the discharger to evaluate the
21 SWPPP on an annual basis and revise it as necessary to ensure compliance with
22 the Storm Water Permit. (Storm Water Permit, Section X(A)-(B).) The Storm
23 Water Permit also requires that the discharger conduct an annual comprehensive
24 site compliance evaluation that includes a review of all visual observation records,
25 inspection reports and sampling and analysis results, a visual inspection of all
26 potential pollutant sources for evidence of, or the potential for, pollutants entering
27 the drainage system, a review and evaluation of all BMPs to determine whether
28 the BMPs are adequate, properly implemented and maintained, or whether

1 additional BMPs are needed, and a visual inspection of equipment needed to
 2 implement the SWPPP. (Storm Water Permit, Section X(B) and Section XV.)

3 76. The SWPPP and site maps must be assessed annually and revised as
 4 necessary to ensure accuracy and effectiveness. (Storm Water Permit, Sections
 5 I(J) (Finding 55) and X(B)(1).) Significant SWPPP revisions must be certified and
 6 submitted by the discharger via the State Board's electronic database, called the
 7 Storm Water Multiple Application & Report Tracking System ("SMARTS")
 8 within 30 days. (Storm Water Permit, Section X(B)(2).) Dischargers are required
 9 to submit revisions to the SWPPP that are determined to not be significant every
 10 three (3) months in the reporting year. (*Id.* at Section X(B)(3); Storm Water
 11 Permit, Fact Sheet, Section II(I)(1).)

12 **F. The Storm Water Permit's Monitoring Implementation Program** 13 **Requirements**

14 77. The Storm Water Permit requires facility operators to develop and
 15 implement a Monitoring Implementation Plan ("MIP"). (Storm Water Permit
 16 Sections X(I) and XI(A)–(D).) The MIP must ensure that storm water discharges
 17 comply with the Discharge Prohibitions, Effluent Limitations, and Receiving
 18 Water Limitations specified in the Storm Water Permit. (Storm Water Permit
 19 Section XI.) The MIP must ensure that practices at the facility to prevent or
 20 reduce pollutants in storm water and authorized non-storm water discharges are
 21 evaluated and revised to meet changing conditions at the facility, including
 22 revision of the SWPPP. (*Id.*)

23 78. Further objectives of the MIP are to ensure that BMPs have been
 24 adequately developed and implemented, revised if necessary, and to ensure that
 25 storm water and non-storm water discharges comply with the Storm Water
 26 Permit's Discharge Prohibitions, Effluent Limitations, and Receiving Water
 27 Limitations. (Storm Water Permit, Section XI.)

1 79. The MIP aids in the implementation and revision of the SWPPP and
2 measures the effectiveness of BMPs to prevent or reduce pollutants in storm water
3 discharges. (*Id.*)

4 80. The Storm Water Permit requires facility operators to monitor and
5 sample storm water discharges to ensure that the facility is complying with the
6 terms of the permit. (Storm Water Permit, Sections I(J) (Findings 55–56) and XI.)

7 81. Section XI(A)(4) of the Storm Water Permit requires that the MIP
8 shall be revised as necessary to ensure compliance with the Storm Water Permit.

9 82. Section XI(A) of the Storm Water Permit requires dischargers to
10 conduct monthly visual observations of storm water discharges.

11 83. Section XI(A)(2) of the Storm Water Permit requires dischargers to
12 document the presence of any floating and suspended materials, O&G,
13 discolorations, turbidity, or odor in the discharge, and the source of any pollutants
14 in storm water discharges from the facility. Dischargers are required to maintain
15 records of observations, observation dates, discharge locations observed, and
16 responses taken to reduce or prevent pollutants from contacting storm water
17 discharges. (*See* Storm Water Permit, Section XI(A)(3).) The Storm Water Permit
18 also requires dischargers to revise the SWPPP as necessary to ensure that BMPs
19 are effectively reducing and/or eliminating pollutants at the facility. (Storm Water
20 Permit, Section X(B)(1).)

21 84. The Storm Water Permit requires dischargers to visually observe and
22 collect samples of storm water discharges from all locations where storm water is
23 discharged. (Storm Water Permit, Section XI(B)(4).)

24 85. Section XI(B)(1) of the Storm Water Permit requires sampling if a
25 precipitation event produces a discharge for at least one drainage area, and it is
26 preceded by forty-eight (48) hours with no discharge from any drainage area
27 (“Qualifying Storm Event” or “QSE”).
28

1 86. Section XI(B)(2) of the Storm Water Permit requires dischargers to
2 collect and analyze storm water samples from two (2) QSEs within the first half of
3 each reporting year (July 1 to December 31), and two (2) QSEs within the second
4 half of each reporting year (January 1 to June 30).

5 87. Section XI(B)(6) of the Storm Water Permit requires dischargers to
6 analyze storm water samples for TSS, O&G, pH, and additional parameters
7 identified by the discharger on a facility-specific basis that serve as indicators of
8 the presence of all industrial pollutants identified in the pollutant source
9 assessment, additional applicable industrial parameters related to receiving waters
10 with 303(d) listed impairments or approved TMDLs, and additional parameters
11 required by the Regional Water Board.

12 88. All facilities are required to sample storm water for TSS, O&G, and
13 pH. The Facility's NOI classifies the Facility under Standard Industrial
14 Classification Code ("SIC") 3452, covering bolts, nuts, screws, rivets, washers.
15 Under SIC Code 3452, Monogram Aerospace is also required to sample storm
16 water for zinc, ("Zn"), iron ("Fe"), aluminum ("Al"), and nitrate + nitrite nitrogen
17 ("N+N"). In addition, Monogram Aerospace is required to sample storm water for
18 pH, oil and grease ("O&G"), and total suspended solids ("TSS"). Facilities must
19 also sample and analyze for additional parameters identified on a facility-specific
20 basis to reflect a facilities' pollutant source assessment, as required by the Storm
21 Water Permit and the Regional Board, and additional parameters related to
22 receiving waters with 303(d) listed impairments. (Storm Water Permit, Section
23 XI(B)(6).) When self-reporting storm water sample results, Defendants sampled
24 for those pollutants listed above in this paragraph. Defendants' annual report
25 identifies other pollutants, including but not limited to, cyanide, cadmium, and
26 lead as being present at the facility. Defendants do not sample for these pollutants.

27 89. Section XVI of the Storm Water Permit requires dischargers to
28 submit an annual report with a Compliance Checklist that indicates whether a

1 Discharger complies with, and has addressed all applicable requirements of the
 2 permit, an explanation for any non-compliance of requirements within the
 3 reporting year, as indicated in the Compliance Checklist, an identification,
 4 including page numbers and/or Sections, of all revisions made to the SWPPP
 5 within the reporting year, and the date(s) of the Annual Evaluation.

6 **G. Exceedance Response Action Requirements**

7 90. When the 2015 Permit became effective on July 1, 2015, all
 8 permittees were in “Baseline status.” (*See* 2015 Permit, Section XII(B).) A
 9 permittee’s Baseline status for any given parameter changes to “Level 1 status” if
 10 sampling results indicate a NAL exceedance for that same parameter. (*See* Storm
 11 Water Permit, Section XII(C).)

12 91. Level 1 status commences on July 1 following the reporting year
 13 during which the exceedance(s) occurred. (*See* Storm Water Permit, Section
 14 XII(C).) By October 1 following commencement of Level 1 status, permittees are
 15 required to: complete an evaluation, with the assistance of a Qualified Industrial
 16 Stormwater Practitioner (“QISP”), of the industrial pollutant sources at the facility
 17 that are or may be related to the NAL exceedance(s); and identify in the
 18 evaluation the corresponding BMPs in the SWPPP and any additional BMPs and
 19 SWPPP revisions necessary to prevent future NAL exceedances and to comply
 20 with the requirements of Storm Water Permit. (*See* Storm Water Permit Section
 21 XII(C)(1)(a)-(c).)

22 92. Although the evaluation may focus on the drainage areas where the
 23 NAL exceedance(s) occurred, all drainage areas shall be evaluated. (*See* Storm
 24 Water Permit, Section XII(C)(1)(c).)

25 93. Based upon this Level 1 status evaluation, the permittee is required
 26 to, as soon as practicable but no later than January 1 following commencement of
 27 Level 1 status, revise the SWPPP as necessary and implement any additional
 28 BMPs identified in the evaluation, certify and submit via SMARTS a Level 1

1 Exceedance Response Action (“ERA”) Report prepared by a QISP that includes
2 the a summary of the Level 1 ERA Evaluation and a detailed description of the
3 SWPPP revisions and any additional BMPs for each parameter that exceeded an
4 NAL. (*See* Storm Water Permit, Section XII(C)(2)(a)(i)-(ii).)

5 94. The permittee in Level 1 status must also certify and submit via
6 SMARTS the QISP’s identification number, name, and contact information
7 (telephone number, e-mail address) no later than January 1 following
8 commencement of Level 1 status. (*See* Storm Water Permit, Section
9 XII(C)(2)(a)(iii).)

10 95. A permittee’s Level 1 status for a parameter will return to Baseline
11 status once a Level 1 ERA Report has been completed, all identified additional
12 BMPs have been implemented, and results from four (4) consecutive qualified
13 storm events that were sampled subsequent to BMP implementation indicate no
14 additional NAL exceedances for that parameter. (*See* Storm Water Permit, Section
15 XII(C)(2)(b).)

16 96. A permittee’s Level 1 status for any given parameter shall change to
17 Level 2 status if sampling results indicate an NAL exceedance for that same
18 parameter while the Discharger is in Level 1. Level 2 status commences on July 1
19 following the reporting year during which the NAL exceedance(s) occurred. (*See*
20 Storm Water Permit, Section XII(D).)

21 97. A Discharger in Level 2 status shall submit a Level 2 ERA Action
22 Plan prepared by a QISP that addresses each new Level 2 NAL exceedance by
23 January 1 following the reporting year during with the NAL exceedances
24 occurred. On January 1 of the reporting year following the submittal of the Level
25 2 ERA Action Plan, a Discharger shall certify and submit a Level 2 ERA
26 Technical Report prepared by a QISP to SMARTS. (*See*, Storm Water Permit,
27 Section XII(D).)

1 **V. STATEMENT OF FACTS**

2 **A. Monogram Aerospace Facility Site Description, Industrial Activities,**
 3 **and Pollutant Sources at the Facility**

4 98. Defendants operate an industrial facility located at 3423 Garfield
 5 Ave, Commerce, CA 90040, in close proximity to the Los Angeles River
 6 Tributaries and Watershed. The Facility's primary industrial purpose is the
 7 manufacturing of fasteners for the aerospace industry. The Facility's NOI and
 8 SWPPP notes that the site is approximately 131,400 square feet. The SWPPP
 9 identifies 18,396 square feet of industrial areas exposed to stormwater and the
 10 NOI identifies 23,620 square feet exposed to stormwater. The NOI does not
 11 indicate what the percentage of the site is impervious. The Facility SWPPP
 12 identifies one (1) building at the Facility site (at 3423 S. Garfield Ave.) that is
 13 113,004 square feet. The Facility's last updated SWPPP notes that the Monogram
 14 Aerospace Fasteners facility operates 5 days per week, Monday through Friday,
 15 from 5:00 am to 10:00 pm. Variations in actual operating hours may occur as
 16 necessary.

17 99. Monogram Aerospace manufactures fasteners for use in the
 18 aerospace industry. Materials range from a mixture of medium grade metal to high
 19 strength metals such as titanium. Industrial activities include production
 20 processes, chemical & waste storage, the waste treatment system, handling
 21 customer materials, vehicle use and parking, and maintenance activities. Plaintiff
 22 is informed and believes, and thereon alleges, that industrial activities at the
 23 Facility, many of them conducted outdoors and exposed to storm water include,
 24 but are not limited to, heading, machining, threading, cleaning, plating, and
 25 coating operations.

26 100. The industrial areas and associated activities generate and release
 27 pollutants at the Facility which are discharged in storm water.
 28

1 101. Pollutants from these activities accumulate at the Facility and
2 contribute to pollutants in storm water. Pollutants of concern at the Facility
3 include but are not limited to aluminum, iron, Nitrate, N+N, oil & grease, pH,
4 TSS, zinc, cyanide, cadmium, copper, lead, and ammonia. These pollutants are
5 subject to tracking to other areas of the Facility, and offsite of the Facility, by
6 employees, transfer of industrial materials between work areas and warehouses,
7 loading and unloading of industrial materials, vehicle and forklift traffic, and use
8 of heavy industrial equipment.

9 102. Monogram Aerospace discharges into the lower Los Angeles River.
10 Monogram Aerospace's Notice of Intent identifies the Receiving Water as the Rio
11 Hondo River, which is a tributary to the Los Angeles River.

12 103. The Facility SWPPP describes that the Facility is divided into 2
13 drainage areas: Eastside and Westside, as shown on the Site Map(s) in SWPPP
14 Appendix A. The Site Map(s) shows the area layout, including the general site
15 topography, storm drainage system, drainage inlets, its respective drainage areas,
16 and discharge locations. The facility site is relatively level with the east parking
17 lot sloping slightly to the north. The elevation of the site is 141 feet above mean
18 sea level (msl). Surface drainage at the site currently flows to the storm drains
19 towards Lower Los Angeles River. There is no anticipated offsite run-on to this
20 site because there are no up gradient drainage areas.

21 104. The Los Angeles River Tributaries and Watershed and the Pacific
22 Ocean are waters of the United States, and which, upon information and belief,
23 receive stormwater discharges from the Facility.

24 **B. The Rio Hondo River and the Los Angeles River Tributaries and**
25 **Watershed**

26 105. LA Waterkeeper's members utilize the Receiving Waters for
27 recreation, scientific study through pollution and habitat monitoring and
28

1 restoration activities. LA Waterkeeper monitors the water quality, insect
2 populations, and habitat at multiple locations in the Los Angeles River.

3 106. The Los Angeles River and its estuary provide critical habitat for
4 species, including some that are endangered, threatened, rare, and endemic to
5 Southern California. The concrete-lined sections provide wading habitat for
6 shorebirds that have few other options, given that the majority of Los Angeles'
7 wetlands have been destroyed. The Los Angeles River estuary provides a rich
8 brackish habitat at the intersection of freshwater and saltwater environments.
9 These river reaches support endangered species, including the Least bell's vireo,
10 Western yellow-billed cuckoo, Willow flycatcher, and Tri-colored blackbird.
11 They also support species of special concern, such as the Santa Ana sucker, arroyo
12 chub, California brown pelican, yellow-breasted chat, long-billed curlew, bank
13 swallow, and the California red-legged frog. These habitats remain vulnerable,
14 however. Past habitat destruction and pollution have led to the extirpation of many
15 species, including the western pond turtle and the steelhead trout, and many
16 species listed here are likely to be extirpated in the near future.

17 107. Queensway Bay is the outlet for the Los Angeles River, at Junipero
18 Beach, located in Long Beach. The surrounding area was formerly wetlands but is
19 now heavily developed and contains a marina, restaurants, and businesses. Ample
20 recreational opportunities exist in and around the bay, including water contact
21 sports such as kayaking, sailing, stand-up paddle boarding, rowing, and jet skiing,
22 and other activities such as walking, bicycling, boating. The bay provides habitat
23 for an abundant variety of aquatic and bird species and other wildlife.

24 **C. The Facility Storm Water Permit Coverage**

25 108. SMARTS lists the current Facility WDID number for the Facility as
26 4 19I001761 and coverage under the Storm Water Permit as "Active."

27 109. The NOI for the Facility lists the Receiving Water as "Rio Hondo
28 River".

1 110. Via search of the SMARTS database, Plaintiff obtained the Facility
2 SWPPP for the Facility, last revised in December 2020.

3 111. Plaintiff is informed and believes, and thereon alleges, that
4 Defendants have been operating with an inadequately developed or implemented
5 SWPPP in violation of Storm Water Permit requirements since at least May 5,
6 2018. Defendants has failed to evaluate the effectiveness of its BMPs and to revise
7 its SWPPP as necessary, resulting in the Facility's unlawful effluent limitation
8 violations.

9 112. Plaintiff is informed and believes, and thereon alleges, that the
10 Facility Owners/Operators failed to implement any additional BMPs as required
11 by the Storm Water Permit. As such, the Owners and/or Operators are in daily
12 violation of this requirement of the Storm Water Permit.

13 113. Plaintiff is informed and believes, and thereon alleges, that the
14 Facility Owners/Operators have failed to implement BMPs that achieve
15 compliance with Storm Water Permit or the CWA.

16 114. Plaintiff is informed and believes, and thereon alleges, that pollutants
17 associated with the Facility include, but are not limited to: aluminum, iron,
18 Nitrate, N+N, oil & grease, pH, TSS, zinc, cyanide, cadmium, copper, lead, and
19 ammonia.

20 115. Plaintiff is informed and believes, and thereon alleges, that
21 Defendants have failed to implement the minimum BMPs required by the Storm
22 Water Permit, including good housekeeping requirements; preventive
23 maintenance requirements; spill and leak prevention and response requirements;
24 material handling and waste management requirements; erosion and sediment
25 controls; employee training and quality assurance; and record keeping. (Storm
26 Water Permit, Sections X(H)(1)(a)–(g).) The BMPs that are described in the
27 Facility's SWPPP are insufficient to prevent the NAL and NEL exceedances for
28 constituents listed above. As evidenced by the sample results, the current BMPs at

1 the Facility are inefficient, and the Facility's Monitoring Implementation Plan
2 needs improvement.

3 116. Plaintiff is informed and believes, and thereon alleges, that
4 Monogram Aerospace has further failed to implement advanced BMPs necessary
5 to reduce or prevent discharges of pollutants in its storm water sufficient to meet
6 the BAT/BCT standards, including: exposure minimization BMPs; containment
7 and discharge reduction BMPs; treatment control BMPs; or other advanced BMPs
8 necessary to comply with the General Permit's effluent limitations. (Storm Water
9 Permit X.H.2.) The most recent BMPs implemented in the 2022 Level 2 ERA for
10 N+N and O&G are not sufficient because exceedances are still occurring for both
11 of those constituents. These BMPs are insufficient to achieve compliance with the
12 General Permit.

13 117. Plaintiff is informed and believes, and thereon alleges, that there are
14 also insufficient minimum BMPs implemented, such as good housekeeping.

15 118. Plaintiff is informed and believes, and thereon alleges, that
16 Defendants have failed to collect sufficient storm water samples for analyses, in
17 violation of the Storm Water Permit, since at least May 5, 2018.

18 119. Plaintiff is informed and believes, and thereon alleges, that storm
19 water discharges containing excess levels of O&G, TSS, N+N, aluminum, pH,
20 and zinc occur each time storm water discharges from Facility in violation of the
21 Storm Water Permit Sections III(C)–(D) and VI(A)–(B).

22 120. Plaintiff is informed and believes, and thereon alleges, that the
23 repeated and significant exceedances of NALs and Benchmark Levels
24 demonstrate that the Owners/Operators have failed and continue to fail to develop
25 and/or implement BMPs to prevent the exposure of pollutants to storm water and
26 to prevent discharges of polluted storm water and non-storm water from the
27 Facility.
28

1 121. Plaintiff is informed and believes, and thereon alleges, that the
2 Owners/Operators have failed and continue to fail to evaluate the effectiveness of
3 its BMPs and adequately revise the Facility SWPPP, despite repeated and
4 significant concentrations of pollutants in Facility's storm water discharges.
5 Further, Defendants have failed to make changes to the Facility's training
6 programs, or make any other changes based upon events that would signal a need
7 for required revisions or alteration of practices.

8 122. Plaintiff is informed and believes, and thereon alleges, that
9 pollutants, including but not limited to those referenced herein, have been and
10 continue to be tracked throughout the Facility's operation areas.

11 123. Plaintiff is informed and believes, and thereon alleges, that the
12 Owners'/Operators' failure to properly address pollutant sources and pollutants
13 results in the exposure of pollutants associated with its industrial activities to
14 precipitation, and that this results in discharges of polluted storm water from
15 Facility and into local waterways in violation of the Storm Water Permit and/or
16 the CWA.

17 124. Plaintiff is informed and believes, and thereon alleges, that the
18 Owners'/Operators' failure to properly address these pollutants and its sources
19 results in the exposure of pollutants to precipitation, which carries these pollutants
20 with storm water flows from Facility into the Receiving Waters.

21 **D. Storm Water Discharges from the Facility**

22 122. As discussed above and as detailed in the Facility SWPPP, there are
23 two discharge points at the Facility where storm water leaves the Facility and is
24 discharged into the Lower Los Angeles River and Pacific Ocean downstream.

25 123. Plaintiff is informed and believes, and thereon alleges, that
26 Monogram Aerospace has self-reported NAL and NEL exceedances from the
27 Facility over the past five (5) reporting years.

28

**E. The Facility's Storm Water Discharges to the Receiving Waters
Contain Elevated Levels of Pollutants**

124. Plaintiff is informed and believes, and thereon alleges, that pollutants from the Facility discharge with storm water to the Lower Los Angeles River, which intersects with the Rio Hondo River and flows downstream into Queensway Bay, Junipero Beach, and the Pacific Ocean.

125. Plaintiff is informed and believes, and thereon alleges, that the Owners'/Operators' failure to properly address these pollutants and its sources results in the exposure of pollutants to precipitation, which carries these pollutants with storm water flows into the Lower Los Angeles River, which intersects with the Rio Hondo River and flows into the Queensway Bay, Junipero Beach, and the Pacific Ocean, all waters of the United States.

126. Storm water discharges containing pollutants including, but not limited to, heavy metals such as zinc, lead, and copper, and iron adversely affect the aquatic environment.

127. Samples of storm water discharges collected at the Facility contain pollutants including of O&G, TSS, N+N, aluminum, pH, and zinc in excess of levels known to adversely impact aquatic species and the environment, federal regulations, WQS, Benchmarks, and/or the CTR (zinc as well as copper, lead, cadmium, and cyanide, which Plaintiff believes are also discharged by Monogram Aerospace even though they are not tested for) in violation of the Storm Water Permit's Effluent Limitations and Receiving Water Limitations.

128. Plaintiff is informed and believes, and thereon alleges, that during and/or after every significant rain event exceeding either a 0.75-inch total storm event or a continuing 0.2-inch per hour storm event, or any other storm water or non-storm water discharge that has occurred at the Facility since May 5, 2018, through the present, Defendants have discharged and continues to discharge storm water and non-storm water from the Facility that contains concentrations of

1 pollutants at levels that violate the prohibitions and limitations set forth in the
2 Storm Water Permit, the technology-based Effluent Limitations, the Benchmarks,
3 CTR, and/or the WQS.

4 **F. Defendants' Violations of the Storm Water Permit's Sampling,**
5 **Reporting, and Monitoring Implementation Plan Requirements**

6 129. Plaintiff is informed and believes, and thereon alleges, that
7 Defendants have failed and continue to fail to develop an adequate Monitoring
8 Implementation Plan ("MIP") for industrial operations at the Facility that
9 complies with Section XI of the Storm Water Permit.

10 130. Plaintiff is informed and believes, and thereon alleges, that
11 Defendants have failed and continue to fail to revise the MIP for the Facility as
12 necessary to ensure compliance with the Storm Water Permit in violation of
13 Section XI of the Storm Water Permit.

14 131. Plaintiff is informed and believes, and thereon alleges, that
15 Defendants have failed and continue to fail to implement the MIP at the Facility,
16 in violation of Section XI of the Storm Water Permit.

17 132. Plaintiff is informed and believes, and thereon alleges, that
18 Defendants have failed and continue to fail to collect or analyze sufficient storm
19 water samples at the Facility, in violation of Section XI of the Storm Water
20 Permit.

21 133. Plaintiff is informed and believes, and thereon alleges, that
22 Defendants have failed and continue to fail to adequately revise the MIP for the
23 Facility as necessary to ensure compliance with the Storm Water Permit in
24 violation of Section XI of the Storm Water Permit.

25 134. Plaintiff is informed and believes, and thereon alleges, that the
26 Owners/Operators of the Facility consistently fail to prepare, implement, and
27 report on its Water Quality Based Corrective Actions as required by the Storm
28 Water Permit.

1 135. Plaintiff is informed and believes, and thereon alleges, that the
2 Owners/Operators of the Facility have consistently failed and continue to fail to
3 report any noncompliance with the Storm Water Permit at the time that the
4 Annual Report is submitted.

5 136. Plaintiff is informed and believes, and thereon alleges, that the
6 Owners/Operators did not report their non-compliance as required by the Storm
7 Water Permit.

8 137. Plaintiff is informed and believes, and thereon alleges, that the
9 Owners/Operators of the Facility fail to collect sufficient storm water samples
10 during QSEs.

11 138. Based on information available to Plaintiff, it is informed and
12 believes, and thereon alleges, that the BMPs proffered as implemented in the
13 Facility SWPPP are insufficient and ineffective in reducing pollutants to levels
14 compliant with the Storm Water Permit and/or the CWA.

15 139. Plaintiff is informed and believes, and thereon alleges, that
16 Defendants have failed to submit accurate Annual Reports to the Regional Board
17 for the past five reporting years in violation of Section XVI of the Storm Water
18 Permit.

19 140. Plaintiff is informed and believes, and thereon alleges, that during the
20 2018-2019 reporting year, and every year after that, the Facility entered ERA
21 Level 2 for N+N and O&G.

22 141. Plaintiff is informed and believes, and thereon alleges, that during the
23 2019-2020 reporting year, the Facility entered ERA Level 2 for Zinc—and stayed
24 at level 2 at least through the 2020-2021 reporting year.

25 142. Plaintiff is informed and believes, and thereon alleges, that based on
26 currently available data for the 2022-2023 reporting year, the Facility will remain
27 ERA Level 2 status for N+N, O&G and zinc.

28

1 143. Plaintiff is informed and believes, and thereon alleges, the
 2 Owners/Operators have failed to analyze stormwater samples for cyanide,
 3 cadmium, copper, and lead even though Monogram Aerospace identifies them as
 4 being present at the Facility.

5 **VI. CLAIMS FOR RELIEF**

6 **FIRST CAUSE OF ACTION**

7 **Discharges of Contaminated Storm Water in Violation of**
 8 **the Storm Water Permit's Effluent Limitations and the Clean Water Act.**
 9 **33 U.S.C. §§ 1311(a), 1342, 1365(a) and 1365(f)**

10 144. Plaintiff incorporate the allegations contained in the above
 paragraphs as though fully set forth herein.

11 145. Plaintiff is informed and believes, and thereon alleges, that
 12 Defendants have failed and continues to fail to reduce or prevent pollutants
 13 associated with industrial activities at the Facility from discharging from the
 14 Facility through implementation of BMPs that achieve BAT/BCT.

15 146. Plaintiff is informed and believes, and thereon alleges, that
 16 discharges of storm water containing levels of pollutants that do not achieve
 17 compliance with BAT/BCT standards from the Facility occur every time storm
 18 water discharges from the Facility. Defendants' failure to develop and/or
 19 implement BMPs that achieve the pollutant discharge reductions attainable via
 20 BAT or BCT at the Facility is a violation of the Storm Water Permit and the
 21 CWA. (*See* Storm Water Permit, Sections I(D) (Finding 32)V(A); 33 U.S.C. §
 22 1311(b).)

23 147. The Owners/Operators violate and will continue to violate the Storm
 24 Water Permit's Effluent Limitations each and every time storm water containing
 25 levels of pollutants that do not achieve BAT/BCT standards discharges from the
 26 Facility.

1 148. Plaintiff is informed and believes, and thereon alleges, that the
 2 Owners'/Operators' violations of Effluent Limitations of the Storm Water Permit
 3 and the CWA are ongoing and continuous.

4 149. Each day, since at least May 5, 2018, that the Owners/Operators
 5 discharge storm water containing pollutants in violation of the Storm Water
 6 Permit is a separate and distinct violation of Section 301(a) of the CWA, 33
 7 U.S.C. § 1311(a).

8 150. By committing the acts and omissions alleged above, the
 9 Owners/Operators are subject to an assessment of civil penalties for each and
 10 every violation of the CWA occurring from May 5, 2018 to the present, pursuant
 11 to Sections 309(d) and 505 of the CWA, 33 U.S.C. §§ 1319(d), 1365, and 40
 12 C.F.R. § 19.4.

13 151. An action for injunctive relief is authorized by CWA Section 505(a),
 14 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged
 15 above would irreparably harm Plaintiff, Plaintiff's members, and the citizens of
 16 the State of California, for which harm Plaintiff have no plain, speedy, or adequate
 17 remedy at law.

18 152. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
 19 because an actual controversy exists as to the rights and other legal relations of the
 20 Parties.

21 153. WHEREFORE, Plaintiff prays for judgment against Defendants as
 22 set forth hereafter.

23 **SECOND CAUSE OF ACTION**
 24 **Violation of Section 301(a) of the Clean Water Act by Discharging**
 25 **Contaminated Storm Water in Violation of the Storm Water Permit's**
 26 **Numeric Effluent Limitations.**
 27 **U.S.C. §§ 1311(a), 1342, 1365(a) and 1365(f)**

28 157. Plaintiff incorporates the allegations contained in the above
 paragraphs as though fully set forth herein.

1 158. Plaintiff is informed and believes, and thereon alleges, that
2 Defendants failed and continue to fail to comply with the Storm Water Permit's
3 Numeric Effluent Limitations.

4 159. Plaintiff is informed and believes, and thereon alleges, that
5 Defendants violate, and will continue to violate the Storm Water Permit's
6 Numeric Effluent Limitations each day that storm water discharges from the
7 Facility. (Storm Water Permit, Section V(C).)

8 160. Plaintiff is informed and believes, and thereon alleges, that
9 Defendants violated the Effluent Limitations of the Storm Water Permit and the
10 Clean Water Act within the applicable statute of limitations, and such violations
11 are ongoing and continuous.

12 161. Plaintiff is informed and believes, and thereon alleges, that
13 Defendants' acts and omissions described herein constitute violations of
14 individual terms of the Storm Water Permit, compliance with which is required to
15 lawfully discharge pollutants to waters of the United States.

16 162. Plaintiff alleges that its members have been harmed by Defendants'
17 acts and omissions described herein and have standing to bring this suit.

18 163. Each and every violation of the Storm Water Permit Effluent
19 Limitations is a separate and distinct violation of Section 301(a) of the CWA, 33
20 U.S.C. § 1311(a). 151. By committing the acts and omissions alleged above,
21 Defendants are subject to an assessment of civil penalties for each and every
22 violation of the CWA occurring from May 5, 2018, to the present, pursuant to
23 Sections 309(d) and 505 of the CWA, 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R.
24 § 19.4.

25 164. An action for injunctive relief is authorized by CWA Section 505(a),
26 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged
27 above would irreparably harm Plaintiff and the citizens of the State of California,
28 for which harm Plaintiff has no plain, speedy, or adequate remedy at law.

1 165. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
2 because an actual controversy exists as to the rights and other legal relations of the
3 Parties.

4 166. WHEREFORE, Plaintiff prays for judgment against Defendants as
5 set forth hereafter.

6 **THIRD CAUSE OF ACTION**
7 **Defendants' Discharges of Contaminated Storm Water**
8 **in Violation of the Storm Water Permit's**
9 **Receiving Water Limitations and the Clean Water Act.**
10 **33 U.S.C. §§ 1311(a), 1342, 1365(a) and 1365(f)**

11 154. Plaintiff incorporates the allegations contained in the above
12 paragraphs as though fully set forth herein.

13 155. Plaintiff is informed and believes, and thereon alleges, that
14 discharges of storm water containing levels of pollutants that adversely impact
15 human health and/or the environment from the Facility occur each time storm
16 water discharges from the Facility.

17 156. Plaintiff is informed and believes, and thereon alleges, that storm
18 water containing levels of pollutants that cause or contribute to exceedances of
19 water quality standards, including but not limited to standards set forth in the
20 applicable Basin Plan, has discharged and continues to discharge from the Facility
21 each time storm water discharges from the Facility.

22 157. The Owners/Operators violate and will continue to violate the Storm
23 Water Permit's Receiving Water Limitations each and every time storm water
24 containing levels of pollutants that adversely impact human health and/or the
25 environment, and that cause or contribute to exceedances of WQS discharges from
26 the Facility.

27 158. Plaintiff is informed and believes, and thereon alleges, that the
28 Owners'/Operators' violations of Receiving Water Limitations of the Storm Water
Permit and the CWA are ongoing and continuous.

1 159. Each and every violation of the Storm Water Permits' Receiving
2 Water Limitations is a separate and distinct violation of Section 301(a) of the
3 CWA, 33 U.S.C. § 1311(a).

4 160. By committing the acts and omissions alleged above, the
5 Owners/Operators are subject to an assessment of civil penalties for each and
6 every violation of the CWA occurring from May 5, 2018 to the present, pursuant
7 to Sections 309(d) and 505 of the CWA, 33 U.S.C. §§ 1319(d), 1365, and 40
8 C.F.R. § 19.4.

9 161. An action for injunctive relief under the Clean Water Act is
10 authorized by Section 505(a), 33 U.S.C. § 1365(a). Continuing commission of the
11 acts and omissions alleged above would irreparably harm Plaintiff, Plaintiff's
12 members, and the citizens of the State of California, for which harm they have no
13 plain, speedy, or adequate remedy at law.

14 162. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
15 because an actual controversy exists as to the rights and other legal relations of the
16 Parties.

17 163. WHEREFORE, Plaintiff prays for judgment against Defendants as
18 set forth hereafter.

19 **FOURTH CAUSE OF ACTION**

20 **Defendants' Failure to Adequately Develop, Implement, and/or**
21 **Revise a Storm Water Pollutant Prevention Plan in Violation of the**
22 **Storm Water Permit and the Clean Water Act.**
23 **33 U.S.C. §§ 1311(a), 1342, 1365(a) and 1365(f)**

24 167. Plaintiff incorporates the allegations contained in the above
25 paragraphs as though fully set forth herein.

26 168. Plaintiff is informed and believes, and thereon alleges, that the
27 Owners/Operators have failed and continue to fail to develop an adequate SWPPP
28 for the Facility, in violation of the Storm Water Permit.

 169. Plaintiff is informed and believes, and thereon alleges, that the

1 Owners/Operators have failed and continue to fail to adequately implement a
2 SWPPP for the Facility, in violation of the Storm Water Permit.

3 170. Plaintiff is informed and believes, and thereon alleges, that
4 Owners/Operators have failed and continue to fail to adequately revise the
5 SWPPP for the Facility, in violation of the Storm Water Permit.

6 171. The Owners/Operators have been in violation of the Storm Water
7 Permit at the Facility every day from May 5, 2018, to the present.

8 172. The Owners'/Operators' violations of the Storm Water Permit and
9 the CWA at the Facility are ongoing and continuous.

10 173. The Owners/Operators will continue to be in violation of the Storm
11 Water Permit and the CWA each and every day the Owners/Operators fail to
12 adequately develop, implement, and/or revise the SWPPP for the Facility.

13 174. Each and every violation of the Storm Water Permit's SWPPP
14 requirements at the Facility is a separate and distinct violation of the CWA.

15 175. By committing the acts and omissions alleged above, the
16 Owners/Operators are subject to an assessment of civil penalties for each and
17 every violation of the CWA occurring from May 5, 2018, to the present, pursuant
18 to Sections 309(d) and 505 of the CWA, 33 U.S.C. §§ 1319(d), 1365, and 40
19 C.F.R. § 19.4.

20 176. An action for injunctive relief under the CWA is authorized by
21 Section 505(a) of the CWA, 33 U.S.C. § 1365(a). Continuing commission of the
22 acts and omissions alleged above would irreparably harm Plaintiff, their members,
23 and the citizens of the State of California, for which harm they have no plain,
24 speedy, or adequate remedy at law.

25 177. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
26 because an actual controversy exists as to the rights and other legal relations of the
27 Parties.

28 178. WHEREFORE, Plaintiff prays for judgment against Defendants as

1 set forth hereafter.

2 **FIFTH CAUSE OF ACTION**

3 **Defendants' Failure to Adequately Develop, Implement, and/or**
4 **Revise a Monitoring and Reporting Plan in Violation of**
5 **the Storm Water Permit and the Clean Water Act.**
6 **U.S.C. §§ 1311(a), 1342, 1365(a) and 1365(f)**

7 179. Plaintiff incorporates the allegations contained in the above
8 paragraphs as though fully set forth herein.

9 180. Plaintiff is informed and believes, and thereon alleges, that the
10 Owners/Operators have failed and continue to fail to develop an adequate MIP for
11 the Facility, in violation of the Storm Water Permit.

12 181. Plaintiff is informed and believes, and thereon alleges, that the
13 Owners/Operators have failed and continue to fail to adequately implement an
14 MIP for the Facility, in violation of the Storm Water Permit.

15 182. Plaintiff is informed and believes, and thereon alleges, that the
16 Owners/Operators have failed and continue to fail to adequately revise an MIP for
17 the Facility, in violation of the Storm Water Permit.

18 183. The Owners/Operators have been in violation of the Storm Water
19 Permit's monitoring requirements at the Facility every day from May 5, 2018, to
20 the present.

21 184. The Owners'/Operators' violations of its Storm Water Permit's
22 monitoring requirements and the CWA at the Facility are ongoing and continuous.

23 185. The Owners/Operators will continue to be in violation of Section XI
24 of the Storm Water Permit, and the CWA each and every day they fail to
25 adequately develop, implement, and/or revise an MIP for the Facility.

26 186. Each and every violation of the Storm Water Permit's MIP
27 requirements at the Facility is a separate and distinct violation of the CWA.

28 187. By committing the acts and omissions alleged above, the
Owners/Operators are subject to an assessment of civil penalties for each and

1 every violation of the CWA occurring from May 5, 2018, to the present, pursuant
2 to Sections 309(d) and 505 of the CWA, 33 U.S.C. §§ 1319(d), 1365, and 40
3 C.F.R. § 19.4.

4 188. An action for injunctive relief under the CWA is authorized by
5 Section 505(a) of the CWA, 33 U.S.C. § 1365(a). Continuing commission of the
6 acts and omissions alleged above would irreparably harm Plaintiff, their members,
7 and the citizens of the State of California, for which harm they have no plain,
8 speedy, or adequate remedy at law.

9 189. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
10 because an actual controversy exists as to the rights and other legal relations of the
11 Parties.

12 190. WHEREFORE, Plaintiff prays for judgment against Defendants as
13 set forth hereafter.

14 **SIXTH CAUSE OF ACTION**

15 **Defendants' Failure to Report as Required by the Storm Water**
16 **Permit in Violation of the Storm Water Permit and the**
17 **Clean Water Act.**

18 **33 U.S.C. §§ 1311(a), 1342, 1365(a) and 1365(f)**

19 191. Plaintiff incorporates the allegations contained in the above
20 paragraphs as though fully set forth herein.

21 192. Section XVI of the Storm Water Permit requires a permittee to
22 submit an Annual Report to the Regional Board by July 1 of each year. Section
23 XVI of the Permit requires that the Annual Report include a compliance checklist
24 that indicates that a discharger complies with and has addressed all applicable
25 requirements of the Permit, an affirmation of visual observations and sampling
26 results, an identification and explanation of any non-compliance, an identification
27 of all revisions made to the SWPPP within the reporting year, and the date of the
28 Annual Evaluation. Storm Water Permit, Section XVI. Laboratory reports of
sample analysis, the annual comprehensive site compliance evaluation report, an

1 explanation of why a permittee did not implement any activities required are also
2 reporting requirements throughout the reporting year and are typically uploaded
3 into the SMARTS portal.

4 193. The Permit also requires a permittee whose discharges violate the
5 Storm Water Permit's Receiving Water Limitations or water quality standards,
6 such as, NALs, TMDLs, TMDL-Specific Numeric Action Levels and NELs to
7 implement additional BMPs or other control measures that are tailored to that
8 facility in order to attain compliance with the receiving water limitation. A
9 Discharger that is notified by a Regional Board or who determines the discharge is
10 causing or contributing to an exceedance of a water quality standard must comply
11 with the Water Quality Based Corrective Actions in Section XX(B) of the Permit
12 and report to the Regional Board regarding same. (See Storm Water Permit,
13 Section XX(B).)

14 194. Plaintiff is informed and believes, and thereon alleges, that the
15 Owners/Operators have failed to accurately report their non-compliance with the
16 Storm Water Permit and correctly report storm water sampling analysis
17 compliance in the Facility's Annual Reports. As such, Defendants are in daily
18 violation of the Storm Water Permit.

19 195. Further, Defendants have repeatedly failed to submit required ERA
20 Level 1 and/or Level 2 Reports, despite entering into those levels for various
21 constituents. As such, Defendants are in daily violation of the Storm Water Permit
22 Section XII.

23 196. The Facility Owners/Operators have been in violation of Sections
24 XII, XVI and XX of the Storm Water Permit since at least May 5, 2018.

25 197. The Owners'/Operators' violations of the reporting requirements of
26 the Storm Water Permit and the CWA are ongoing and continuous.

27 198. By committing the acts and omissions alleged above, the
28 Owners/Operators of the Facility are subject to an assessment of civil penalties for

1 each and every violation of the CWA occurring from May 5, 2018, to the present,
 2 pursuant to Sections 309(d) and 505 of the CWA, 33 U.S.C. §§ 1319(d), 1365,
 3 and 40 C.F.R. § 19.4.

4 199. An action for injunctive relief under the CWA is authorized by
 5 Section 505(a) of the CWA, 33 U.S.C. § 1365(a). Continuing commission of the
 6 acts and omissions alleged above would irreparably harm Plaintiff, its members,
 7 and the citizens of the State of California, for which harm they have no plain,
 8 speedy, or adequate remedy at law.

9 200. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
 10 because an actual controversy exists as to the rights and other legal relations of the
 11 Parties.

12 201. WHEREFORE, Plaintiff prays for judgment against Defendants as
 13 set forth hereafter.

14 **VII. RELIEF REQUESTED**

15 202. Wherefore, Plaintiff respectfully requests that this Court grant the
 16 following relief:

17 **a.** A Court order declaring Defendants to have violated and to be
 18 in violation of Sections 301(a) and (b) and 402 of the Clean Water Act, 33
 19 U.S.C. §§ 1311(a) and (b) and 1342, for its unlawful discharges of pollutants
 20 from the Facility in violation of a permit issued pursuant to Section 402(p) of
 21 the CWA, 33 U.S.C. § 1342(p), for failing to meet effluent standards
 22 limitations which include BAT/BCT requirements, and for failing to comply
 23 with the substantive and procedural requirements of the Storm Water Permit
 24 and the CWA;

25 **b.** A Court order enjoining Defendants from violating the
 26 substantive and procedural requirements of the Storm Water Permit and
 27 Sections 301(a) and 402 of the CWA, 33 U.S.C. §§ 1311(a), 1342;

28 **c.** A Court order assessing civil monetary penalties for each

1 violation of the CWA occurring on or after November 2, 2015, of \$64,618 per
2 day, as permitted by 33 U.S.C. § 1319(d) and Adjustment of Civil Monetary
3 Penalties for Inflation, 40 C.F.R. § 19.4;

4 **d.** A Court order awarding Plaintiff its reasonable costs of suit,
5 including attorney, witness, expert, and consultant fees, as permitted by
6 Section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d); and

7 **e.** Any other relief as this Court may deem appropriate.
8
9

10 Dated: July 7, 2023

Respectfully submitted,

11 /s/ Jason R. Flanders
12

13 Jason R. Flanders

14 Kenya S. Rothstein

15 AQUA TERRA AERIS LAW
16 GROUP

17 Attorneys for Plaintiff

18 LOS ANGELES WATERKEEPER
19
20
21
22
23
24
25
26
27
28